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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/751,208

12/29/2000

Kenneth S. Bailey

VTC.0107

8869

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02/20/2004

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EXAMINER

NGUYEN, VINCENT Q

ART UNIT

PAPER NUMBER

2858

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/751,208	<b>Applicant(s)</b> BAILEY ET AL.	
	<b>Examiner</b> Vincent Q Nguyen	<b>Art Unit</b> 2858	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION:

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

ALL the numbers, such as, 10-13, 15, 17-19, ... etc. as disclosed in the specification (e.g. pages 6-12) are not in the drawings.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "server", the "means for relaying said measured dimensions from said processor means", (e.g. claim 11) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after

the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

### ***Specification***

3. The disclosure is objected to because of the following informalities:

Page 6, line 10, between "as" and "13", should an "antenna" be inserted?

Appropriate correction and/or explanation is required.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 11, 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

It is not understood how the means for relaying the measured dimensions from processor to server unit. What is the purpose for "relaying"? Where is the server (e.g. 110 page 12)? How is the server related to the system? How does it operate? Does Applicant mean computer server? For the purpose of examination, examiner assumes

that any unit contributed to the system is the server and the means for relaying is any resistance to the conducting or propagating of the signal.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 11, 12, 17, are rejected under 35 U.S.C. 102(b) as being anticipated by Williams (3,490,037).

Regarding claims 1, 11, 12, 17, Williams discloses an apparatus and method for measuring dimensions of an object comprising (figure 1) a source (Connects to element 10) of microwave signals having a predetermined amplitude and frequency (The amplitude is predetermined by the state of the system; see also figures 4-6 and their corresponding through out the entire disclosure), transmitting means (11) for radiating said microwave signals, receiving means (18) for receiving said microwave signals, and processor means (Figures 4-6) for evaluating such received signals.

7. Claims 1, 6, 8-14, 17-19, are rejected under 35 U.S.C. 102(b) as being anticipated by Yukl (6,057,761).

Regarding claims 1, 12, 17, Yukl discloses an apparatus and method for measuring dimensions of an object comprising (figure 1) a source (20) of microwave

signals having a predetermined amplitude and frequency (The amplitude is predetermined by the state of the system), transmitting means for radiating said microwave signals, receiving means for receiving said microwave signals (See figure 2A), and processor means (22) for evaluating such received signals.

Regarding claim 6, Yuki discloses transmitting means and such receiving means (16, 18) are formed in a linear configuration (See figures 1-2).

Regarding claim 8, 14, Yuki disclose processor means calculates one of the following measurements: the height (Column 2, line 56).

Regarding claims 9, 13, 18, Yuki discloses object (S) being measured comprises a human being (figure 1).

Regarding claim 10, Yuki discloses processor means (22) comprises a computer.

Regarding claim 11, Yuki discloses at least one server unit (Elements 22, 24, 26 is server unit); a means (any conductor or air) for relaying said measured dimensions from said processor means (22) to said at least one server unit; and a means (any conductor or air) for relaying said measured dimensions from said at least one server unit to at least one user.

Regarding claim 19, Yuki discloses said microwaves are generated by an oscillator for generating microwaves of a predetermined frequency (Figure 3) in the microwave region chosen for maximum absorption by the object (S) (Column 2, lines 12-15).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-5, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuki (6,057,761) in view of Gershberg et al. (3,801,978).

Regarding claims 2-5, Yuki discloses every subject matter recited in the claim except miniaturized antennas.

Gershberg et al. a system and method similar to that of Yuki and further discloses miniaturized antennas for the purpose of providing balanced Doppler mixing without complex radio frequency devices (Gershberg et al.'s column 2, 20-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the miniaturized antennas as taught by Gershberg et al. into the system of Yuki because it would have been desirable to enhance the system to provide balanced Doppler mixing without complex radio frequency devices.

10. Claims 7, 15, 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuki (6,057,761).

Regarding claim 7, the only difference between Yukl and the invention claim is that the claim recites the transmitting means and receiving means are formed in a circular configuration in place of rotating the object.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the transmitting and the receiving means formed in a circular configuration because it would have been desirable to scan entire body of the object (Yukl's column 9, lines 23-47).

Regarding claims 15, 16, Yukl does not explicitly disclose the step of communicating said extracted information to at least one user. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the step of extracting information to at least one user because in order to identify or to recognize someone, his or her desired information must be extracted and deliver to the user to process.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Patent No.4, 773,029 discloses a method for three-dimensional measurements of objects being conveyed using transmitter, receiver to transmit and receive microwave to detect the dimensions.

Patent No. 4,975,968 discloses detecting device using microwave transmitter/receiver antenna array and associated electronics for measuring the



dielectric constant of the materials to produce data for interpretation in real time as to the article's dielectric material configuration and contents.

Patent No. 5,578,933 discloses a distance-measuring device has a transmitter mounted on one of the objects for transmitting a plurality of waves with different wavelength.

References cited but not applied against the claims are considered to be of interest and should be carefully considered by the applicant.

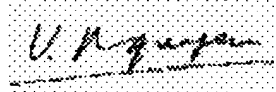
#### ***Contact Information***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vincent Q Nguyen whose telephone number is (571) 272-2234. The examiner can normally be reached on Mon-Fri 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, N. Le can be reached on (571) 272-2233. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Vincent Q. Nguyen

A handwritten signature in black ink, appearing to read "V. Nguyen", is written over a rectangular area with a light gray dot grid pattern.

January 30, 2004